

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**RICO BENTON
ADC #097236**

PLAINTIFF

v. **CASE NO. 5:19-CV-00185 BSM**

WENDY KELLEY, et al.

DEFENDANTS

ORDER

After *de novo* review of the record, including Rico Benton’s various filings [Doc. Nos. 8, 9, 10, 11], the proposed findings and recommendations [Doc. No. 4] submitted by United States Magistrate Judge Jerome T. Kearney are adopted. It is worth noting that in his objections, Benton challenges the constitutionality of the prison’s policy of restricting incoming mail to three pages. It is, however, unclear who Benton is suing for this policy and how he, as opposed to the individual trying to send him mail, was actually harmed by it. Benton does not allege that he did not receive the mail or that he actually paid the \$8.75 fee to receive it. Instead, it seems that he complains only about the fact that no one in the prison spoke with him about the policy.

Accordingly, this lawsuit is dismissed for a failure to state a claim upon which relief may be granted; dismissal of this lawsuit constitutes a “strike” for the purposes of 28 U.S.C. section 1915(g); and it is certified, pursuant to 28 U.S.C. section 1915(a)(3) that an *in forma pauperis* appeal from this order and accompanying judgment would not be taken in good faith.

IT IS SO ORDERED this 8th day of July 2019.

Brian S. Miller
UNITED STATES DISTRICT JUDGE